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Attorney for Plaintiff
WAYNE BERRY

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii citizen;) Civ. No. CV03 00385 SOM-LEK
Plaintiff,) (Copyright)
vs.)
HAWAIIAN EXPRESS SERVICE,) **PLAINTIFF WAYNE BERRY'S**
INC., a California corporation; et al.) **ERRATA RE: MEMORANDUM IN**
Defendants.) **SUPPORT OF PLAINTIFF**
) **WAYNE BERRY'S MOTION TO**
) **ALTER OR AMEND SECOND**
) **AMENDED JUDGMENT**
) **ENTERED ON MARCH 16, 2006**
) **AND TO DELAY TIME FOR**
) **FILING AN APPEAL PENDING**
) **RESOLUTION OF MOTION FOR**
) **ATTORNEYS' FEES AND FULL**
) **COSTS; CERTIFICATE OF**
) **SERVICE**
)
) **RELATED TO DOCKET NO. 863**

**PLAINTIFF WAYNE BERRY'S *ERRATA RE:* MEMORANDUM
IN SUPPORT OF PLAINTIFF WAYNE BERRY'S MOTION TO ALTER
OR AMEND SECOND AMENDED JUDGMENT ENTERED ON MARCH
16, 2006 AND TO DELAY TIME FOR FILING AN APPEAL PENDING
RESOLUTION OF MOTION
FOR ATTORNEYS' FEES AND FULL COSTS**

COMES NOW, Plaintiff Wayne Berry, by and through his undersigned counsel, hereby respectfully submits his *Errata Re:* Memorandum in Support of Plaintiff Wayne Berry's Motion to Alter or Amend Second Amended Judgment Entered on March 16, 2006 and to Delay Time for Filing an Appeal Pending Resolution of Motion for Attorneys' Fees and Full Costs filed on March 21, 2006 as Docket No. 863 (the "Memorandum").

The text of the Memorandum erroneously requested relief related to Brian Christensen. Mr. Berry notes that the Motion to Alter or Amend makes no request for any relief regarding Mr. Christensen. The following errata is submitted regarding page 5 of 7 of the memorandum filed on March 21, 2006 as Docket No.863 to correct the drafting error:

IT IS ORDERED AND ADJUDGED, that Judgment is entered in favor of the Plaintiff in the amount of \$57,534.00 and against the Defendant Fleming Companies, Inc. in the amount of \$57,534.00 and Mark Dillon in the amount of \$2.00, Teresa Noa in the amount of \$2.00, Justin Fukumoto in the amount of \$0.00, Jacqueline Rio in the amount of \$0.00, Alfredda Waiolama in the amount of \$0.00 and Melvin Ponce in

the amount of \$0.00, all pursuant to the jury verdict filed on March 7, 2005 and Order Granting In Part, Denying In Part Berry's Motion For Summary Judgment; Order Granting C&S Logistics of Hawaii, LLC, C&S Wholesale Grocers, Inc., C&S Acquisition, LLC, ES3, LLC, and Richard Cohen's Motion For Summary Judgment; Order Granting Guidance Software, Inc., and Michael Gurzi's Motion for Summary Judgment; Order Granting In Part, Denying In Part Remaining Defendants' Motions for Summary Judgment filed on June 27, 2005.

Mr. Berry notes that he had not received any request from Counsel for Mr. Christensen to make this correction or any notice of the need for it despite his counsel spending over one hour in the past week in what was purported to be a "good faith" meet and confer with Mr. Berry's counsel where this matter could have been easily raised to permit Mr. Berry's counsel the opportunity to make a correction of what was a drafting error.

To the extent that the Court entertains any request for relief contained in the Opposition filed by the Employees, Mr. Berry request the opportunity to make a full record regarding this matter prior to any ruling related to this issue.

The Employees' Opposition will be further addressed in a Reply to follow.

DATED: Honolulu, Hawai'i, April 1, 2006.

/s/ Timothy J. Hogan

TIMOTHY J. HOGAN
Attorney for Plaintiff
WAYNE BERRY

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii citizen;) Civ. No. CV03 00385 SOM-LEK
) (Copyright)
Plaintiff,)
) **CERTIFICATE OF SERVICE**
vs.)
)
HAWAIIAN EXPRESS SERVICE,)
INC., a California corporation; et al.)
)
Defendants.)
_____)

CERTIFICATE OF SERVICE

I hereby certify that on the dates and by the methods of service noted below, a true and correct copy of the Errata Re: Plaintiff Wayne Berry's Memorandum in Support of Plaintiff Wayne Berry's Motion to Alter or Amend Second Amended Judgment Entered on March 16, 2006 and to Delay Time for Filing an Appeal Pending Resolution of Motion for Attorneys' Fees and Full Costs Certificate of Service was served on the following at their last known addresses:

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DATED: Honolulu, Hawai'i, April 1, 2006.

/s/ Timothy J. Hogan

TIMOTHY J. HOGAN

Attorney for Plaintiff WAYNE BERRY